

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

FILED

AUG 28 2006

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

FURMINATOR, INC.

Plaintiff,

v.

ONTEL PRODUCTS CORP.,

Defendant.

CASE NO.

JURY TRIAL DEMANDED

**4 06CV01294 CAS**

COMPLAINT

This is FURminator, Inc.'s ("FURminator") complaint against Defendant Ontel Products Corporation ("Ontel").

**JURISDICTION AND VENUE**

1. This is an action for patent infringement. FURminator seeks preliminary and permanent injunctive relief and damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338 (patents).

3. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400 because Ontel resides in this judicial district because it is subject to personal jurisdiction here. On information and belief, a substantial part of the events giving rise to FURminator's claims occurred in this judicial district.

THE PARTIES

4. FURminator is a Missouri corporation with its principal place of business in St. Louis, Missouri.

5. Ontel is a New Jersey corporation with its principal place of business at 21 Law Drive, Fairfield, New Jersey 07004.

6. Ontel's products at issue in this case are offered for sale and sold in the Eastern District of Missouri.

#### **FURminator's Patents**

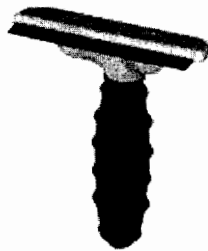
7. On January 6, 2006, FURminator filed suit against Ontel and others alleging that Ontel's products infringed U.S. Patent No. 6,782,846 (the "First Porter Patent"). *See* Case No. 4:06-CV-0023 CAS. The Court held a *Markman* hearing on FURminator's Motion for Preliminary injunction on February 14, 2006.

8. FURminator is the owner by assignment of U.S. Patent No. 7,077,076 (the "Second Porter Patent"). Exhibit A. The Second Porter Patent issued on July 18, 2006 and claims a pet grooming tool for removing loose hair from a pet.

9. The Second Porter Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

#### **FURminator's Grooming Tool**

10. FURminator sells a grooming tool as claimed in the Second Porter Patent and for use in the patented method of the Second Porter Patent.



### **Ontel's Infringing Activities**

11. On information and belief, Ontel makes, uses, offers to sell, sells or imports into the United States the ShedEnder grooming tool:



12. FURminator informed Ontel of the Second Porter Patent on July 19, 2006.

#### **Count I**

##### **Ontel's Infringement of the Second Porter Patent under 35 U.S.C. § 271(a)**

13. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

14. Ontel has been and is infringing the Second Porter Patent under 35 U.S.C. § 271(a).

15. Ontel directly infringes the Second Porter Patent by making, using, selling, offering to sell and/or importing the ShedEnder.

16. Ontel's conduct has damaged and will continue to damage FURminator.

17. On information and belief, Ontel's infringement of the Second Porter Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

#### **Count II**

##### **Ontel's Infringement of the Second Porter Patent under 35 U.S.C. § 271(b)**

18. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

19. Ontel has been and is infringing the Second Porter Patent under 35 U.S.C. § 271(b).

20. Ontel, and others, directly infringe the Second Porter Patent by making, using, selling, offering to sell and/or import the ShedEnde.

21. Ontel knows of the Second Porter Patent.

22. On information and belief, Ontel knows its ShedEnde grooming tool has no substantial use that does not infringe the Second Porter Patent.

23. On information and belief, Ontel intends for others to infringe the Second Porter Patent.

24. Ontel's conduct has damaged and will continue to damage FURminator.

25. On information and belief, Ontel's infringement of the Second Porter Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

### **Count III**

#### **Ontel's Infringement of the Second Porter Patent under 35 U.S.C. § 271(c)**

26. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

27. Ontel has been and is infringing the Second Porter Patent under 35 U.S.C. § 271(c).

28. Ontel, and others, directly infringe the Second Porter Patent by making or using the method claimed in the Second Porter Patent.

29. Ontel makes, uses, offers to sell, sells and/or imports into the United States Ontel's ShedEnde grooming tool.

30. Ontel's ShedEnde grooming tool is an apparatus for use in practicing FURminator's patented method as claimed in the Second Porter Patent.

31. Ontel's ShedEnde grooming tool constitutes a material part of FURminator's method as claimed in the Second Porter Patent.

32. On information and belief, Ontel knows Ontel's ShedEnde grooming tool to be especially made or especially adapted for use in infringement of the Second Porter Patent.

33. Ontel's ShedEnde grooming tool is not a staple article or commodity of commerce suitable for substantial non-infringing use.

34. Ontel knows of the Second Porter Patent.

35. On information and belief, Ontel knowingly aided and abetted direct infringement of the Second Porter Patent by making, using, offering to sell, selling or importing Ontel's ShedEnde grooming tool.

36. Ontel's conduct has damaged and will continue to damage FURminator.

37. On information and belief, Ontel's infringement of the Second Porter Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, FURminator prays for judgment against Ontel as follows:

- A. Preliminarily and permanently enjoin Ontel and any person acting in concert with them from further infringement of U. S. Patent No. 7,077,076;
- B. Award FURminator damages resulting from Ontel's infringements;
- C. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;
- D. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- E. Award FURminator reasonable attorney fees under 35 U.S.C. § 285;
- F. Order the impounding and destruction of all Ontel's products that infringe U.S. Patent No. 7,007,076;
- G. Award FURminator interests and costs;
- H. Ontel must pay FURminator punitive damages due to their willful infringement;

I. Ontel must report to this Court of their compliance of the foregoing within thirty (30) days of judgment; and

J. For such other and further relief that the Court deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a jury on all issues so triable.

Respectfully submitted,

**Thompson Coburn LLP**

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